

SOUTH DAKOTA BOARD OF NURSING

0-0

IN THE MATTER OF THE LICENSURE :
PROCEEDINGS :

RE: JAYNE MARSHALL, R.N.	:	ORDER OF SUMMARY SUSPENSION AND NOTICE OF HEARING
License No. R-025329,	:	
Licensee.	:	

0-0

WHEREAS, Jayne Marshall, R.N. ("Licensee"), is licensed to practice as a
Registered Nurse in the State of South Dakota and holds License number R-025329; and

WHEREAS, said Licensee on or about May, 2006 Licensee, while employed at the
Rapid City Regional Hospital in Rapid City, South Dakota, admittedly began diverting
Morphine and Percocet from her employer for personal use.

On October 26, 2006, a drug screen at her place of employment was positive for
Morphine and other narcotics.

Thereafter, Licensee entered into treatment with Keystone Treatment Center, being
discharged on or about December 3, 2006. On December 6, 2006, the Licensee signed a
Voluntary Refrain from Practice Statement with the South Dakota Board of Nursing and
had started the process of enrolling in the Health Professionals Assistance Program
("HPAP"). On December 27, 2006, Licensee appeared for an Informal Meeting with the
Board of Nursing staff, where she admitted to diverting 8 to 12 mg. of Morphine per shift

for her own use; and

WHEREAS, at the end of the Informal Meeting with the Board of Nursing staff, the Licensee stated that she would agree to a settlement of mandated HPAP for a period of 5 years; and

WHEREAS, the recommended informal settlement terms were presented to the full South Dakota Board of Nursing on February 6, 2007, with said agreement for informal settlement not being accepted by the Board; and

WHEREAS, based upon the above conduct, the Board has concluded that the public health, safety and welfare requires emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to her care in the future; and

WHEREAS, the Board, has a statutory obligation to protect the health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Board specifically finds that the public health, safety and welfare requires emergency action against Licensee's license.
3. That based on the above, the Board specifically finds that the Licensee and

her actions endangered the public health, safety and welfare, and imperatively requires emergency action in that Licensee's may endanger the health and safety of those persons who are or will be entrusted to her care in the future and that these are matters of a nature that would constitute further grounds for discipline of her license to practice nursing under SDCL § 36-9-49.

4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of her license at anytime for "good cause" and upon the completion of all terms and conditions of her participation in HPAP, their evaluation and subsequent clearance. This Order also affects licensee's privilege to practice in South Dakota. Should licensee change her home state under the Nurse Licensure Compact, then licensee's practice privilege is subject to the same requirements as set forth in this order as her South Dakota license.

5. That Licensee shall turn in her license to the Board within ten (10) days from the date of this Order and it shall be kept by the Board until further action on this matter.

6. Licensee is hereby notified that any practice of or holding herself out as a practical nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

The South Board of Nursing at its meeting on the 7th day of February, 2007,

approved this Order of Summary Suspension as written without modifications and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 7th day of February, 2007, by a vote of 7-0.

SOUTH DAKOTA BOARD OF NURSING


Gloria Damgaard, Executive Director

NOTICE OF HEARING

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Jayne Marshall, R.N., License No. R-025329 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on April 17, 2007, at ~~10:00~~ ^{11:00} ~~10:00~~ ² o'clock ~~p.m.~~ ^a at the Board of Nursing Office, located at 4305 S. Louise Avenue, Suite 201, Sioux Falls, South Dakota.
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.
3. Licensee has a right to request that the agency use the Office of Hearing

Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

4. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 7th day of February, 2007.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director